



Election
w/traverse
Atty. Dkt. No. 038602-1060

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Applicant: Narmada SHENOY et al.

Title: FORMULATIONS FOR PHARMACEUTICAL AGENTS IONIZABLE AS FREE ACIDS OR FREE BASES

Appl. No.: 09/716,332

Filing Date: November 21, 2000

Examiner: D. Jones

Art Unit: 1614

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Washington, D.C. 20231

Sir:

The following is a response to the Office Action mailed January 31, 2002, in the above-identified application the period for response to which has been extended to March 31, 2002 by virtue of the attached petition for extension of time and appropriate fee.

Applicants hereby provisionally elect Group I, claims 1-77, drawn to a formulation with traverse.

Applicants' traverse the restriction requirement on the ground that there is no undue burden on the Examiner to examine the two groups together. The Examiner has set forth a restriction requirement separating the claims into two separate groups. It is respectfully submitted that pursuant to the *Official Gazette* notice of March 26, 1996 which establishes guidelines for treatment of product and process claims in light of *In re Ochiai*, claims should be included herein for consideration on the merits. At the minimum, method of use claims of the same scope as the formulation claims should be rejoined when the formulation claims are found to be allowable.

Applicants provisionally elect with traverse as the species of claim 3 for initial search and examination the following compound: 3-[2,4-dimethyl-5-(2-oxo-1,2-dihydro-indol-3-ylidenemethyl)-1H-pyrrol-3-yl] propionic acid. The chemical structural representation of this compound is found on page 29 of the present specification.

It is understood that should the Examiner find the above species allowable, then the search and examination of the entire application will proceed according to the procedure set forth in MPEP § 803.02.

Applicants also reserve the right to file a divisional application covering the subject matter of the non-elected claims.

Receipt of the initial Office Action on the merits is awaited.

Respectfully submitted,

Date March 28, 2002

By Mary C. Till

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